

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

TRUSTEES OF THE OPERATING ENGINEERS)
PENSION TRUST, et al.,)

Plaintiffs,)

vs.)

MAUI ONE EXCAVATING, INC., et al.,)

Defendants.)

Case No. 2:12-cv-00338-KJD-NJK

**ORDER TO SHOW CAUSE
WHY DEFENDANTS SHOULD
NOT BE SANCTIONED**

For the reasons stated below, the Court hereby ORDERS attorney Defendants Maui One Excavating, Inc., Paitaka Miyahira and Tasey Miyahira to show cause in writing, no later than February 28, 2013, why the Court should not issue sanctions against them for failure to comply with a Court order up to and including entry of default judgment pursuant to Local Rule IA 4-1, Fed. R. Civ. P. 16(f), and/or the Court's inherent authority. Defendants' attorney of record, Gary Branton, is further ORDERED to serve this order to show cause on Defendants and to file a declaration no later than February 23, 2013 indicating that he has so served Defendants and the manner of service.

On February 12, 2013, the Court also issued a minute order scheduling a hearing on Mr. Branton's motion to withdraw as counsel. Docket No. 23.¹ That minute order stated in relevant part that:

The Court hereby schedules a hearing on the pending motion to be held on February 21, 2013 at 3:00 p.m. in Courtroom 3D. Defendants Maui One Excavating, Inc., Paitaka Miyahira and Tasey Miyahira are hereby ordered to attend the hearing. Any

¹ This was the second scheduled hearing on this motion, as Mr. Branton had failed to notify Defendants of the previous hearing set on the motion. The tortured history on the pending motion to withdraw is more fully discussed in the order to show cause directed at Gary Branton being issued concurrently with this order to show cause.

1 new counsel retained to represent Defendants in this matter is also ordered to attend.
2 THERE WILL BE NO EXCEPTIONS TO THESE APPEARANCE
3 REQUIREMENTS. No later than February 14, 2013, Mr. Branton shall notify
4 Defendants of this order that they appear and shall file with the Court a declaration
5 indicating the manner in which he notified them. With respect to Defendant Maui
6 One Excavating, Inc., the Court wishes to highlight that it must retain counsel
7 expeditiously as corporations may appear in federal court only through licensed
8 counsel. U.S. v. High Country Broad. Co., Inc., 3 F.3d 1244, 1245 (9th Cir. 1993).

9 Docket No. 23 (emphasis in original).

10 On February 21, 2013, the Court called this matter for the hearing on the pending motion to
11 withdraw as scheduled. Defendants failed to appear as ordered.

12 For the reasons stated above, the Court hereby ORDERS attorney Defendants Maui One
13 Excavating, Inc., Paitaka Miyahira and Tasey Miyahira to show cause in writing, no later than
14 February 28, 2013, why the Court should not issue sanctions against them for failure to comply with
15 a Court order up to and including entry of default judgment pursuant to Local Rule IA 4-1, Fed. R.
16 Civ. P. 16(f), and/or the Court's inherent authority.

17 IT IS SO ORDERED.

18 DATED: February 22, 2013.

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21 NANCY J. KOPPE
22 United States Magistrate Judge
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